

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**NANCY MURPHY and ROBERT
STEWART,**

Plaintiffs,

v.

**THOMAS JEFFERSON UNIVERSITY
HOSPITALS INC. d/b/a JEFFERSON
HEALTH and META PLATFORMS,
Defendants.**

Case No. 2:22-cv-04674-CMR

JURY TRIAL DEMANDED

**DEFENDANT THOMAS JEFFERSON UNIVERSITY HOSPITALS, INC.'S
ANSWER AND DEFENSES TO PLAINTIFFS' SECOND AMENDED COMPLAINT**

Defendant, Thomas Jefferson University Hospitals, Inc. ("Jefferson Health"), by and through its undersigned counsel, answers the Plaintiffs' Second Amended Class Action Complaint ("Complaint") as follows:

Jefferson Health's investigation into the factual allegations contained in the Complaint is ongoing. Accordingly, Jefferson Health reserves its right to supplement its responses below as additional information is discovered.

1. The allegations in paragraph 1 of the Complaint constitute legal conclusions to which a response is not required. To the extent a response is required, Jefferson Health lacks knowledge or information sufficient to form a belief as to the motivations of Plaintiffs or the conduct of Meta Platform Inc. ("Meta") and accordingly denies those allegations. Jefferson Health denies all remaining allegations in paragraph 1.

2. Paragraph 2 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of

the allegations contained in paragraph 2 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 2.

3. Paragraph 3 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 3 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 3.

4. Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 4. The allegations in paragraph 4 are legal conclusions and a summary of Plaintiffs' other allegations, to which no response is required. Jefferson Health objects to Plaintiffs' characterization of its privacy policies, which speak for themselves and as such no response is required. To the extent a response is required, Jefferson Health denies the remaining allegations in paragraph 4. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal. Jefferson Health specifically denies the existence of any "MyJeffersonHealth Mobile Application."

5. Jefferson Health denies the allegations in paragraph 5.

6. Jefferson Health denies the allegations in paragraph 6.

7. Jefferson Health denies the allegations in paragraph 7.

8. Jefferson Health denies the allegations in paragraph 8.

9. Jefferson Health lacks knowledge or information sufficient to form a belief as to the conduct or operations of Meta and accordingly denies those allegations. Jefferson Health otherwise denies the allegations in paragraph 9.

10. Paragraph 10 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 10 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 10.

11. The allegations in paragraph 11 of the Complaint constitute legal conclusions to which a response is not required. To the extent a response is required, Jefferson Health states that the statutes cited in paragraph 11 speak for themselves, and Jefferson Health otherwise denies all allegations in paragraph 11. Jefferson Health specifically denies that Jefferson Health has violated any HIPAA Rules or Pennsylvania statutes regarding confidential medical records, and that HIPAA Rules or Pennsylvania statutes regarding confidential medical records are applicable to the claims in this case.

12. The allegations in paragraph 12 of the Complaint constitute legal conclusions to which a response is not required. To the extent a response is required, Jefferson Health states that the guidance Plaintiffs cite has been declared unlawful and vacated by *Am. Hosp. Ass'n v. Becerra*, No. 4:23-cv-11110, 2024 WL 3075865 (N.D. Tex. Jun. 20, 2024). Jefferson Health otherwise denies all allegations in paragraph 12.

13. Paragraph 13 of the Complaint does not include any allegations about Jefferson Health and, therefore no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 13 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 13.

14. The allegations in paragraph 14 of the Complaint constitute legal conclusions to which a response is not required. To the extent a response is required, Jefferson Health denies all allegations in paragraph 14, including specifically denying that Jefferson Health intercepted or disseminated any individually identifiable health information.

JURISDICTION AND VENUE

15. The allegations in paragraph 15 of the Complaint constitute legal conclusions to which a response is not required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 15.

16. The allegations in paragraph 16 of the Complaint constitute legal conclusions to which a response is not required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 16.

17. The allegations in paragraph 17 of the Complaint constitute legal conclusions to which a response is not required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 17.

MATERIAL FACTS¹

Meta's Collection Tools Redirect Patients' Data From Jefferson Health's Web Properties To Use For Ad Targeting

18. Paragraph 18 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 18 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 18.

¹ Jefferson Health utilizes these headings as they appear in the Second Amended Complaint for organizational purposes only, and their use should not be construed as admissions. To the extent that any response to such headers is required, Jefferson Health denies all allegations in the headers.

19. Paragraph 19 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 19 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 19.

20. Paragraph 20 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 20 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 20.

21. Paragraph 21 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 21 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 21.

22. Paragraph 22 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 22 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 22.

23. Paragraph 23 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of

the allegations contained in paragraph 23 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 23.

24. Paragraph 24 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 24 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 24.

25. Paragraph 25 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 25 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 25.

26. Paragraph 26 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 26 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 26.

27. Paragraph 27 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 27 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 27.

28. Paragraph 28 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 28 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 28.

29. Paragraph 29 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 29 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 29.

30. Paragraph 30 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 30 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 30.

31. Paragraph 31 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 31 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 31.

32. Paragraph 32 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of

the allegations contained in paragraph 32 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 32.

33. The allegations in paragraph 33 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 33.

**Meta Uses Identifiers To Match The Health
Information It Collects With Facebook Users**

34. Paragraph 34 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 34 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 34.

35. Paragraph 35 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 35 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 35.

36. Paragraph 36 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 36 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 36.

37. Paragraph 37 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson

Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 37 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 37.

38. Paragraph 38 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 38 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 38.

39. Paragraph 39 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 39 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 39.

40. Paragraph 40 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 40 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 40.

41. Paragraph 41 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 41 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 41.

42. Paragraph 42 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 42 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 42.

43. Paragraph 43 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 43 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 43.

44. Paragraph 44 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 44 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 44.

45. Paragraph 45 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 45 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 45.

46. Paragraph 46 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of

the allegations contained in paragraph 46 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 46.

47. Paragraph 47 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 47 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 47.

48. Paragraph 48 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 48 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 48.

49. Paragraph 49 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 49 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 49.

Meta Encourages Healthcare Partners, Including Jefferson Health, To Upload Patient Lists for Ad Targeting

50. Paragraph 50 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 50 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 50.

51. Paragraph 51 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 51 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 51.

52. Paragraph 52 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 52 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 52.

53. Paragraph 53 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 53 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 53.

**Jefferson Health Sends A Broad Spectrum of Identifiable Health
Information To Meta Through The Meta Collection Tools**

54. Jefferson Health lacks knowledge or information sufficient to form a belief as to the conduct or operations of Meta and accordingly denies those allegations. Jefferson Health otherwise denies the allegations in Paragraph 54.

55. Jefferson Health lacks knowledge or information sufficient to form a belief as to the “social norms” referenced in paragraph 55, and accordingly denies those allegations. Jefferson Health otherwise denies the allegations in paragraph 55.

**Plaintiffs' Allegations Include Jefferson Health's Use Of
Meta's Other Collection Tools And Both Website And Applications**

56. Jefferson Health states that the allegations in paragraph 56 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 56.

57. Jefferson Health denies the allegations in paragraph 57.

58. Jefferson Health lacks knowledge or information sufficient to form a belief as to the conduct or operations of Meta and accordingly denies those allegations. Jefferson Health otherwise denies all allegations in Paragraph 58.

59. Paragraph 59 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 59 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 59.

60. Paragraph 60 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 60 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 60.

61. Paragraph 61 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 61 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 61.

62. Paragraph 62 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 62 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 62.

63. Paragraph 63 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 63 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 63.

64. Jefferson Health lacks knowledge or information sufficient to form a belief as to the conduct or operations of Meta and accordingly denies those allegations. Jefferson Health otherwise denies all allegations in Paragraph 64.

Jefferson Health Violates Its Own Privacy Policy & Promises

65. Jefferson Health admits that it maintains and operates certain web properties in an effort to support various aspects of its business. Jefferson Health states that allegations in paragraph 65 regarding “individually identifiable health information” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the remaining allegations in paragraph 65.

66. Jefferson Health objects to Plaintiffs’ characterization of its website which speaks for itself and therefore no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 66.

67. Jefferson Health objects to Plaintiffs' characterization of its privacy policies which speak for themselves and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 67.

68. Jefferson Health objects to Plaintiffs' characterization of its privacy policies which speak for themselves and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 68.

69. Jefferson Health objects to Plaintiffs' characterization of its privacy policies which speak for themselves and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 69.

70. Jefferson Health objects to Plaintiffs' characterization of its privacy policies which speak for themselves and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 70.

71. Jefferson Health states that allegations in paragraph 71 regarding whether the "characteristics" or "content" of communications are captured are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 71.

72. Jefferson Health states that allegations in paragraph 72 regarding "individually identifiable health information" are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 72. Jefferson Health specifically denies that it has ever installed the Meta Pixel on the patient portal.

73. The allegations in paragraph 73 of the Complaint pertain to a hypothetical person accessing the website, therefore, there are no factual allegations for Jefferson Health to admit or

deny. To the extent a response is required, Jefferson Health denies the allegations in paragraph 73 of the Complaint.

74. Jefferson Health states that allegations in paragraph 74 regarding whether the “characteristics” or “content” of communications are captured and whether they qualify as “individually identifiable patient health information” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 74.

75. The allegations in paragraph 75 of the Complaint constitute legal conclusions to which a response is not required. To the extent a response is required, Jefferson Health lacks knowledge or information sufficient to form a belief as to the conduct or operations of Meta and accordingly denies those allegations. Jefferson Health denies all remaining allegations in paragraph 75, including specifically denying that Jefferson Health shares individually identifiable health information from its web properties with Meta.

76. The allegations in paragraph 76 of the Complaint constitute legal conclusions to which a response is not required. To the extent a response is required, Jefferson Health lacks knowledge or information sufficient to form a belief as to the conduct or operations of Meta and accordingly denies those allegations. Jefferson Health denies all remaining allegations in paragraph 76, including specifically denying that Jefferson Health shares individually identifiable health information from its web properties with Meta.

77. The allegations in paragraph 77 of the Complaint constitute legal conclusions to which a response is not required. To the extent a response is required, Jefferson Health lacks knowledge or information sufficient to form a belief as to intentions of those that use Jefferson Health’s web properties. Jefferson Health otherwise denies all allegations in paragraph 77.

78. Jefferson Health states that allegations in paragraph 78 regarding “individually identifiable patient health information” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 78, including specifically denying that any individually identifiable health information was sent to Meta.

79. Jefferson Health states that allegations in paragraph 79 regarding “individually identifiable patient health information” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health lacks knowledge or information sufficient to form a belief as to the conduct or operations of Meta and accordingly denies those allegations. To the extent a response is required, Jefferson Health denies the allegations in paragraph 79, including specifically denying that any individually identifiable health information was sent to Meta.

80. Jefferson Health states that allegations in paragraph 80 regarding “individually identifiable patient health information” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 80.

81. Jefferson Health states that allegations in paragraph 81 regarding “individually identifiable patient health information” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health lacks knowledge or information sufficient to form a belief as to the conduct or operations of Meta and accordingly denies those allegations. To the extent a response is required, Jefferson Health denies the allegations in paragraph 81.

82. Jefferson Health states that allegations in paragraph 82 regarding “individually identifiable health information” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 82, including

specifically denying that it shared any individually identifiable patient health information with Meta.

83. Jefferson Health states that allegations in paragraph 83 regarding “individually identifiable patient health information” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 83.

**Meta Falsely Promises Facebook Users That It Requires
Healthcare Partners To Have The Right To Share Their Data**

84. Paragraph 84 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 84 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 84.

85. Paragraph 85 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 85 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 85.

86. Paragraph 86 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 86 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 86.

87. Paragraph 87 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson

Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 87 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 87.

88. Paragraph 88 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 88 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 88.

89. Paragraph 89 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 89 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 89.

90. Paragraph 90 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 90 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 90.

91. Paragraph 91 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 91 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 91.

92. Paragraph 92 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 92 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 92.

93. Paragraph 93 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 93 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 93.

94. Paragraph 94 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 94 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 94.

95. Paragraph 95 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 95 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 95.

96. Paragraph 96 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of

the allegations contained in paragraph 96 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 96.

97. Paragraph 97 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 97 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 97.

98. Paragraph 98 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 98 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 98.

99. Paragraph 99 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 99 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 99.

100. Paragraph 100 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 100 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 100.

101. Paragraph 101 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 101 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 101.

102. Paragraph 102 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 102 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 102.

103. Paragraph 103 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 103 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 103.

104. Paragraph 104 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 104 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 104.

105. Paragraph 105 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of

the allegations contained in paragraph 105 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 105.

106. Paragraph 106 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 106 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 106.

107. Paragraph 107 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 107 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 107.

108. Paragraph 108 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 108 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 108.

109. Paragraph 109 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 109 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 109.

110. Paragraph 110 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 110 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 110.

DEFENDANT’S CONDUCT VIOLATES FEDERAL AND STATE PRIVACY LAWS

The HIPPA [sic] Privacy Rule Protects Patient *Healthcare* Information

111. Paragraph 111 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 111 constitutes legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

112. Paragraph 112 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 112 constitutes legal conclusions to which no response is required. To the extent paragraph 112 purports to summarize or quote the provisions of HIPAA or any portion of the C.F.R., those statutes or rules speak for themselves. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

123. ²Paragraph 123 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 123 constitutes legal conclusions to which no response is required. To the extent paragraph 123 purports to summarize or quote the provisions of HIPAA or any portion of the C.F.R., those statutes or rules speak for themselves. To the

² Plaintiffs’ Second Amended Complaint is missing paragraphs 113–122. *See* Second Am. Compl. at 26, ECF 36.

extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

124. Paragraph 124 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 124 constitutes legal conclusions to which no response is required. To the extent paragraph 124 purports to summarize or quote the provisions of HIPAA or any portion of the C.F.R., those statutes or rules speak for themselves. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

125. Paragraph 125 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 125 constitutes legal conclusions to which no response is required. To the extent paragraph 125 purports to summarize or quote the provisions of HIPAA or any portion of the C.F.R., those statutes or rules speak for themselves. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

126. Paragraph 126 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 126 constitutes legal conclusions to which no response is required. To the extent paragraph 126 purports to summarize or quote the provisions of HIPAA or any portion of the C.F.R., those statutes or rules speak for themselves. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

127. Paragraph 127 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 127 constitutes legal conclusions to which no response is required. To the extent paragraph 127 purports to summarize or quote the provisions

of HIPAA or any portion of the C.F.R., those statutes or rules speak for themselves. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

128. Paragraph 128 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 128 constitutes legal conclusions to which no response is required. To the extent paragraph 128 purports to summarize or quote the provisions of HIPAA or any portion of the C.F.R., those statutes or rules speak for themselves. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

129. Paragraph 129 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 129 constitutes legal conclusions to which no response is required. To the extent paragraph 129 purports to summarize or quote the provisions of HIPAA or any portion of the C.F.R., those statutes or rules speak for themselves. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

HIPAA Protects Patient *Status* Information

130. Paragraph 130 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 130 constitutes legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

131. Paragraph 131 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 131 constitutes legal conclusions to which no response is required. To the extent paragraph 131 purports to summarize or quote guidance, that

guidance speaks for itself. Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

132. Paragraph 132 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 132 constitutes legal conclusions to which no response is required. To the extent paragraph 132 purports to summarize or quote guidance, that guidance speaks for itself. Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

133. Paragraph 133 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 133 constitutes legal conclusions to which no response is required. To the extent paragraph 133 purports to summarize or quote the provisions of HIPAA or any portion of the C.F.R., those statutes or rules speak for themselves. Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

HIPAA's Protections Do Not Exclude Internet Marketing

134. The allegations in paragraph 134 of the Complaint constitute legal conclusions to which a response is not required. Jefferson Health states that the guidance Plaintiffs cite has been declared unlawful and vacated by *Am. Hosp. Ass'n v. Becerra*, No. 4:23-cv-1110, 2024 WL 3075865 (N.D. Tex. Jun. 20, 2024). Paragraph 134 does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

135. The allegations in paragraph 135 of the Complaint constitute legal conclusions to which a response is not required. Jefferson Health states that the guidance Plaintiffs cite has been declared unlawful and vacated by *Am. Hosp. Ass'n v. Becerra*, No. 4:23-cv-1110, 2024 WL 3075865 (N.D. Tex. Jun. 20, 2024). Paragraph 135 does not include any allegations about

Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

136. The allegations in paragraph 136 of the Complaint constitute legal conclusions to which a response is not required. Jefferson Health states that the guidance Plaintiffs cite has been declared unlawful and vacated by *Am. Hosp. Ass'n v. Becerra*, No. 4:23-cv-1110, 2024 WL 3075865 (N.D. Tex. Jun. 20, 2024). Paragraph 136 does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

137. The allegations in paragraph 137 of the Complaint constitute legal conclusions to which a response is not required. Jefferson Health states that the guidance Plaintiffs cite has been declared unlawful and vacated by *Am. Hosp. Ass'n v. Becerra*, No. 4:23-cv-1110, 2024 WL 3075865 (N.D. Tex. Jun. 20, 2024). Paragraph 137 does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

138. The allegations in paragraph 138 of the Complaint constitute legal conclusions to which a response is not required. Jefferson Health states that the guidance Plaintiffs cite has been declared unlawful and vacated by *Am. Hosp. Ass'n v. Becerra*, No. 4:23-cv-1110, 2024 WL 3075865 (N.D. Tex. Jun. 20, 2024). Paragraph 138 does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

139. Paragraph 139 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 139 constitutes legal conclusions to which no response is required. Jefferson Health states that the guidance Plaintiffs rely on has been declared

unlawful and vacated by *Am. Hosp. Ass'n v. Becerra*, No. 4:23-cv-1110, 2024 WL 3075865 (N.D. Tex. Jun. 20, 2024). To the extent a response is required, Jefferson Health denies that it has violated HIPAA in its operation of the web properties.

The FTC Act Protects Health Information

140. Paragraph 140 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 140 constitutes legal conclusions to which no response is required. To the extent paragraph 140 purports to summarize or quote a statement from the FTC, those statements speak for themselves. Jefferson Health otherwise denies the allegations in paragraph 140.

Pennsylvania Law Protects Health Information

141. Paragraph 141 does not include any allegations about Jefferson Health and, therefore, no response is required. The allegations in paragraph 141 constitute legal conclusions to which no response is required. To the extent paragraph 141 purports to summarize or quote Pennsylvania statutes, those statutes speak for themselves. Jefferson Health otherwise denies the allegations in paragraph 141.

142. Paragraph 142 does not include any allegations about Jefferson Health and, therefore, no response is required. The allegations in paragraph 142 constitute legal conclusions to which no response is required. Jefferson Health otherwise denies the allegations in paragraph 142, including specifically denying that it disclosed patients' health communications to Meta.

Patients Have Protectable Property Interests In Their Individually-Identifiable Health Information

143. Paragraph 143 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 143 constitutes legal conclusions to which no

response is required. To the extent a response is required, Jefferson Health otherwise denies the allegations in paragraph 143.

144. Paragraph 144 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 144 constitutes legal conclusions to which no response is required. To the extent a response is required, Jefferson Health otherwise denies the allegations in paragraph 144.

145. Paragraph 145 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 145 constitutes legal conclusions to which no response is required. To the extent a response is required, Jefferson Health otherwise denies the allegations in paragraph 145.

146. Paragraph 146 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 146 constitutes legal conclusions to which no response is required. To the extent a response is required, Jefferson Health otherwise denies the allegations in paragraph 146.

147. Paragraph 147 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 147 constitutes legal conclusions to which no response is required. To the extent a response is required, Jefferson Health otherwise denies the allegations in paragraph 147.

148. Paragraph 148 does not include any allegations about Jefferson Health and, therefore, no response is required. Paragraph 148 constitutes legal conclusions to which no response is required. To the extent a response is required, Jefferson Health otherwise denies the allegations in paragraph 148.

149. Paragraph 149 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 149 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 149.

150. Paragraph 150 constitutes legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 150, including specifically denying that it disclosed individually identifiable health information to Meta.

The Information Jefferson Health Intercepts and Discloses to Meta Without Plaintiffs' Or The Class Members' Consent Has Actual, Measurable Monetary Value

151. Paragraph 151 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 151 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 151.

152. Paragraph 152 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 152 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 152.

153. Paragraph 153 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of

the allegations contained in paragraph 153 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 153.

THE PARTIES

154. Jefferson Health admits it includes Thomas Jefferson University Hospital, Jefferson Hospital for Neuroscience, Methodist Hospital, and that it has offices at the Philadelphia Navy Yard and in Voorhees, New Jersey. Jefferson Health denies the remaining allegations in paragraph 154.

155. Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 155. Therefore, Jefferson Health denies the allegations in paragraph 155.

156. Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 156. Therefore, Jefferson Health denies the allegations in paragraph 156.

157. Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 157, and therefore denies the allegations in paragraph 157. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal.

158. Jefferson Health states that allegations in paragraph 158 regarding whether the Plaintiffs engaged in “communications,” and whether those communications included “intercepted individually-identifiable patient information and patient health information” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 158. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal.

159. Jefferson Health states that allegations in paragraph 159 regarding interception and the “content of communications” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 159. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal.

160. Jefferson Health states that allegations in paragraph 160 regarding “individually-identifiable patient information” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies that it ever sent individually identifiable patient health information to Meta. Jefferson Health otherwise denies the allegations in paragraph 160.

161. Jefferson Health denies that it ever sent individually identifiable patient health information to Meta. Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 161 relating to Meta as they do not pertain to Jefferson Health. Jefferson Health otherwise denies the allegations in paragraph 161.

162. Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 162, and therefore denies the allegations in paragraph 162.

163. Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 163, and therefore denies the allegations in paragraph 163.

164. Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 164, and therefore denies the

allegations in paragraph 164. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal.

165. Jefferson Health states that allegations in paragraph 165 regarding whether the Plaintiffs engaged in “communications,” and whether those communications included “intercepted individually-identifiable patient information and patient health information” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 165. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal.

166. Jefferson Health states that allegations in paragraph 166 regarding interception and the “content of communications” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 166. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal.

167. Jefferson Health states that allegations in paragraph 167 regarding “individually-identifiable patient information” are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies that it ever sent individually identifiable patient health information to Meta. Jefferson Health otherwise denies the allegations in paragraph 167.

168. Jefferson Health states the allegations in paragraph 168 are legal conclusions to which no response is required. Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 168 relating to Meta as they do not pertain to Jefferson Health. Jefferson Health otherwise denies the allegations in paragraph 168.

169. Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 169, and therefore denies the allegations in paragraph 169.

170. Paragraph 170 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 170 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 170.

CLASS ACTION ALLEGATIONS

171. Jefferson Health admits only that Plaintiffs purport to bring this action on behalf of themselves and the proposed class identified in paragraph 171 of the Complaint. Jefferson Health denies that this case can be maintained as a class action and denies that Plaintiffs or any putative class member are entitled to any relief.

172. The allegations in paragraph 172 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies that class certification is appropriate for this case. Jefferson Health otherwise denies each and every allegation in paragraph 172.

173. The allegations in paragraph 173 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies that class certification is appropriate for this case. Jefferson Health otherwise denies each and every allegation in paragraph 173.

174. Jefferson Health lacks knowledge or information sufficient to form a belief as to what the Plaintiffs anticipate and accordingly denies those allegations.

175. The allegations in paragraph 175 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies that class certification is appropriate for this case. Jefferson Health otherwise denies each and every allegation in paragraph 175.

176. The allegations in paragraph 176 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies that class certification is appropriate for this case. Jefferson Health otherwise denies each and every allegation in paragraph 176.

177. The allegations in paragraph 177 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies that class certification is appropriate for this case. Jefferson Health otherwise denies each and every allegation in paragraph 177.

TOLLING

178. The allegations in paragraph 178 of the Complaint constitute legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies that any applicable statute of limitations has been tolled. Jefferson Health otherwise denies all allegations in paragraph 178.

179. Jefferson Health lacks knowledge or information sufficient to form a belief as to what the Plaintiffs and putative class members discovered or knew and accordingly denies those claims. Paragraph 179 of the Complaint constitutes a legal conclusion to which no response is required. To the extent a response is required, Jefferson Health denies that any applicable statute of limitations has been tolled. Jefferson Health otherwise denies all allegations in paragraph 179.

180. The allegations in paragraph 180 of the Complaint constitute legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies that any applicable statute of limitations has been tolled. Jefferson Health otherwise denies all allegations in paragraph 180.

181. Jefferson Health lacks the knowledge or information sufficient to form a belief as to what the Plaintiffs and putative class members reasonably relied on and accordingly denies those allegations. Paragraph 181 of the Complaint constitutes a legal conclusion to which no response is required. To the extent a response is required, Jefferson Health denies that any applicable statute of limitations has been tolled. Jefferson Health otherwise denies all allegations in paragraph 181.

182. The allegations in paragraph 182 of the Complaint constitute legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies that any applicable statute of limitations has been tolled. Jefferson Health otherwise denies all allegations in paragraph 182.

COUNT I

Violation of the Electronic Communications Privacy Act, 18 U.S.C. § 2510, *et seq.*

183. Jefferson Health reinstates and incorporates its responses to paragraph 1 through 182 of the Complaint as if fully stated herein.

184. The allegations in paragraph 184 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 184.

185. The allegations in paragraph 185 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 185.

186. The allegations in paragraph 186 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 186.

187. The allegations in paragraph 187 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 187. Jefferson Health specifically denies that it has ever had the Meta Pixel on its patient portal.

188. The allegations in paragraph 188 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 188.

189. The allegations in paragraph 189 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 189.

190. The allegations in paragraph 190 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 190.

191. The allegations in paragraph 191 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 191.

192. The allegations in paragraph 192 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 192.

193. The allegations in paragraph 193 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 193.

194. The allegations in paragraph 194 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 194.

195. The allegations in paragraph 195 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 195. Jefferson Health specifically denies that it has ever had the Meta Pixel on its patient portal.

196. Jefferson Health lacks the knowledge or information sufficient to form a belief as to the conduct or operations of Meta and accordingly denies those allegations. Jefferson Health otherwise denies all allegations in paragraph 196.

197. The allegations in paragraph 197 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 197.

198. The allegations in paragraph 198 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 198.

199. The allegations in paragraph 199 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 199. Jefferson Health specifically denies that it has ever had the Meta Pixel on its patient portal.

200. The allegations in paragraph 200 of the Complaint constitute legal conclusions to which no response is required. To the extent paragraph 200 purports to summarize or quote the

provisions of the federal wire fraud statute, that statute speaks for itself. To the extent a response is required, Jefferson Health denies all allegations in paragraph 200.

201. The allegations in paragraph 201 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 201.

202. The allegations in paragraph 202 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 202.

203. The allegations in paragraph 203 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 203.

204. The allegations in paragraph 204 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 204.

205. The allegations in paragraph 205 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 205.

206. The allegations in paragraph 206 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 206.

207. The allegations in paragraph 207 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 207.

208. Jefferson Health lacks the knowledge or information sufficient to form a belief as to the wants or desires of Plaintiffs and accordingly denies those allegations. The allegations in paragraph 208 of the Complaint constitute legal conclusions to which no response is required. Jefferson Health otherwise denies all allegations in paragraph 208.

209. Jefferson Health admits that Plaintiffs seek monetary damages. Jefferson Health denies that Plaintiffs are entitled to any damages, monetary or otherwise. Jefferson Health otherwise denies all allegations in paragraph 209.

COUNT II **Breach of Contract**

210. Jefferson Health reinstates and incorporates its responses to paragraph 1 through 209 of the Complaint as if fully stated herein.

211. Jefferson Health states that the allegations in paragraph 211 are legal conclusions to which no response is required. Jefferson Health objects to Plaintiffs' characterization of its privacy policies which speak for themselves and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 211.

212. Jefferson Health states that the allegations in paragraph 212 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 212.

213. Jefferson Health states that the allegations in paragraph 213 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 213.

214. Jefferson Health states that the allegations in paragraph 214 are legal conclusions to which no response is required. Jefferson Health objects to Plaintiffs' characterization of its privacy policies and terms and conditions which speak for themselves and as such no response is

required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 214.

215. Jefferson Health states that the allegations in paragraph 215 are legal conclusions to which no response is required. Jefferson Health objects to Plaintiffs' characterization of its privacy policies which speak for themselves and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 215.

216. Jefferson Health states that the allegations in paragraph 216 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 216.

217. Jefferson Health states that the allegations in paragraph 217 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 217.

218. Jefferson Health states that the allegations in paragraph 218 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 218.

COUNT III
Negligence

219. Jefferson Health reinstates and incorporates its responses to paragraph 1 through 218 of the Complaint as if fully stated herein.

220. Jefferson Health states that the allegations in paragraph 220 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 220.

221. Jefferson Health states that the allegations in paragraph 221 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 221.

222. Jefferson Health states that the allegations in paragraph 222 are legal conclusions to which no response is required. Jefferson Health objects to Plaintiffs' characterization of its webpage which speaks for itself, and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 222.

223. Jefferson Health states that the allegations in paragraph 223 are legal conclusions to which no response is required. Jefferson Health objects to Plaintiffs' characterization of its privacy policies which speak for themselves and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 223.

224. Jefferson Health states that the allegations in paragraph 224 are legal conclusions to which no response is required. Jefferson Health objects to Plaintiffs' characterization of its privacy policies which speak for themselves and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 224.

225. Jefferson Health states that the allegations in paragraph 225 are legal conclusions to which no response is required. Jefferson Health objects to Plaintiffs' characterization of its privacy policies which speak for themselves and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 225.

226. Jefferson Health states that the allegations in paragraph 226 are legal conclusions to which no response is required. Jefferson Health objects to Plaintiffs' characterization of its privacy policies which speak for themselves and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 226.

227. Jefferson Health states that the allegations in paragraph 227 are legal conclusions to which no response is required. Jefferson Health objects to Plaintiffs' characterization of the multiple statutes and C.F.R. cited which speak for themselves and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 227.

228. Jefferson Health states that the allegations in paragraph 228 are legal conclusions to which no response is required. Jefferson Health objects to Plaintiffs' characterization of the statute cited which speaks for itself and as such no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 228.

229. Jefferson Health states that the allegations in paragraph 229 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 229. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal. Jefferson Health specifically denies that it has ever shared individually identifiable patient health information with Meta.

230. Jefferson Health states that the allegations in paragraph 230 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 230.

231. Jefferson Health states that the allegations in paragraph 231 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 231. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal. Jefferson Health specifically denies that it has ever shared individually identifiable patient health information with Meta.

COUNT IV
Invasion of Privacy – Intrusion Upon Seclusion

232. Jefferson Health reinstates and incorporates its responses to paragraph 1 through 231 of the Complaint as if fully stated herein.

233. Jefferson Health states that the allegations in paragraph 233 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 233.

234. Jefferson Health states that the allegations in paragraph 234 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 234. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal.

235. Jefferson Health states that the allegations in paragraph 235 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 235. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal.

236. Jefferson Health states that the allegations in paragraph 236 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 236.

237. Paragraph 237 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 237.

238. Paragraph 238 of the Complaint does not include any allegations about Jefferson Health and, therefore, no response is required. To the extent a response is required, Jefferson Health is without knowledge or information sufficient to form a belief as to the truth or falsity of

the allegations contained in paragraph 238 as they do not pertain to Jefferson Health. Therefore, Jefferson Health denies the allegations in paragraph 238.

239. Jefferson Health states that the allegations in paragraph 239 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 239. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal.

240. Jefferson Health states that the allegations in paragraph 240 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 240.

241. Jefferson Health denies the allegations in paragraph 241.

242. Jefferson Health denies the allegations in paragraph 242.

243. Jefferson Health denies the allegations in paragraph 243.

244. Jefferson Health states that the allegations in paragraph 244 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 244.

245. Jefferson Health states that the allegations in paragraph 245 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 245.

246. Jefferson Health states that the allegations in paragraph 246 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 246. Jefferson Health specifically denies that it has ever used the Meta Pixel on the patient portal.

247. Jefferson Health states that the allegations in paragraph 247 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 247.

248. Jefferson Health states that the allegations in paragraph 248 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 248.

COUNT V
Unjust Enrichment

249. Jefferson Health reinstates and incorporates its responses to paragraph 1 through 248 of the Complaint as if fully stated herein.

250. Jefferson Health states that the allegations in paragraph 250 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 250.

251. Jefferson Health states that the allegations in paragraph 251 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 251.

252. Jefferson Health states that the allegations in paragraph 252 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 252.

253. Jefferson Health states that the allegations in paragraph 253 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 253.

254. Jefferson Health states that the allegations in paragraph 254 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 254.

255. Jefferson Health states that the allegations in paragraph 255 are legal conclusions to which no response is required. To the extent a response is required, Jefferson Health denies the allegations in paragraph 255.

PRAYER FOR RELIEF

Jefferson Health denies that Plaintiffs and the putative class are entitled to any of the relief they seek in (a) through (i) of their Prayer for Relief, and denies the allegations contained in the Prayer for Relief in the Complaint.

DEMAND FOR JURY TRIAL

Jefferson Health demands proof that Plaintiffs and the putative class are entitled to trial by jury on each of the claims in this complaint as a matter of right.

GENERAL DENIAL

Jefferson Health denies each and every allegation in the Second Amended Complaint that is not specifically admitted herein.

DEFENSES

Without conceding that it bears the burden of proof as to any issue, Jefferson Health asserts the following defenses to the Second Amended Complaint:

1. Plaintiffs' Second Amended Complaint fails to state any claim upon which relief can be granted, including, but in no way limited to, the following: Jefferson Health did not release any "medical records" as required by the 28 Pa. Code § 115.27; Jefferson Health did not share or disclose any individually identifiable health information as defined by HIPAA with

Meta; Jefferson Health did not intentionally intrude upon the private affairs of Plaintiffs or the putative class members and did not invade Plaintiffs' or the class members' privacy as defined under Pennsylvania law; there is a lack of consideration, meeting of the minds, and alleged damages for Plaintiffs' breach of contract claim; Jefferson Health was not unjustly enriched, as defined under Pennsylvania law; Jefferson Health was a party to any and all alleged communications under the ECPA; the ECPA is a single-party consent statute and any alleged communications to third parties were consented to by Jefferson Health; a website is not an "electronic communication service," as required to state a valid ECPA claim and Jefferson Health is not an "electronic communication service provider"; the ECPA's criminal or tortious conduct exception does not apply; Jefferson Health did not exceed its authority to access Plaintiffs' computer and Jefferson Health's website did not obtain information from other parts of Plaintiffs' computer; Jefferson Health did not act negligently as defined under Pennsylvania law; and Plaintiffs' lack damages sufficient to state a claim for negligence under Pennsylvania law.

2. Plaintiffs lack standing because they are unable to prove any injury in fact fairly traceable to Jefferson Health's alleged misconduct and therefore the Court lacks subject-matter jurisdiction over the Complaint.

3. Plaintiffs' claims and those of the putative class are barred by the First and Fourteenth Amendments of the United States Constitution as Jefferson Health's alleged conduct amounts to protected speech.

4. Plaintiffs' claims and those of the putative class are preempted by federal law, to the extent they relate to the MyJeffersonHealth portal accessible at www.jeffersonhealth.org, as the federal government made it a federal governmental mission to allow individuals to access

their health records over the Internet, and holding Jefferson Health liable under Pennsylvania state law for alleged third-party disclosures made when a patient accesses their healthcare records online would conflict with this federal mission.

5. To the extent that Plaintiffs and the putative class's claims rely, in whole or in part, on the Department of Health and Human Services' recent tracking technologies guidance, that guidance has been declared unlawful and vacated by *Am. Hosp. Ass'n v. Becerra*, No. 4:23-cv-1110, 2024 WL 3075865 (N.D. Tex. Jun. 20, 2024).

6. Plaintiffs' claims and those of the putative class are or may be barred, in whole or in part, by one or more statutes of limitations under applicable law.

7. Plaintiffs' claims and those of the putative class are or may be barred by the doctrines of waiver and/or release as the terms and conditions that Plaintiffs and the putative class assented to bars their claims, including with respect to the Jefferson Health online portal and the mobile app.

8. Plaintiffs' claims and those of the putative class are barred by consent, public disclosure, and/or voluntary participation in public activities. By using Jefferson Health's website, Plaintiffs and the putative class members gave consent that all information and materials communicated to Jefferson Health through its public website, including data, questions, comments, and suggestions, may be treated as non-confidential and could be used by Jefferson Health for any purpose, including marketing.

9. Plaintiffs' claims and those of the putative class are barred by estoppel as Plaintiffs and the putative class have been on notice of the terms and conditions of Jefferson Health's website and the mobile app and consented to these terms and conditions.

10. Plaintiffs' claims and those of the putative class are barred under the doctrines of laches and/or acquiescence as Plaintiffs and the putative class have been on notice of the terms and conditions of Jefferson Health's website and the mobile app and consented to these terms and conditions.

11. Plaintiffs' and the putative class members' claims are also barred, in whole or in part, by the existence of a contract governing the parties' relationship and the same subject matter as Plaintiffs' and the putative class members' claims. By way of example, and without limitation as to other instances of contracts and/or agreements, Plaintiffs and the putative class members consented to the terms and conditions of Jefferson Health's website. Plaintiffs' and the putative class members' claims are also barred, in whole or in part, by the limitation-of-liability provision contained within agreements entered into with Jefferson Health.

12. Plaintiffs' claims and those of the putative class are barred, in whole or in part, by conditions precedent contained in contracts and/or agreements entered into with Jefferson Health which Plaintiffs and the putative class members did not fulfill prior to the filing of the Complaint.

13. Plaintiffs' claims and those of the putative class are barred, in whole or in part, because Jefferson Health, at all times, acted in good faith and in compliance with applicable statutes and/or regulations.

14. Plaintiffs' claims and those of the putative class are barred, in whole or in part, by Jefferson Health's objectively reasonable belief that any use of the Pixel on publicly accessible portions of the website www.jeffersonhealth.org, was consented to and/or did not transmit individually identifiable health information.

15. The alleged actions or omissions of Jefferson Health were not the legal or proximate cause of any alleged injuries to Plaintiffs and the putative class because Plaintiffs and the putative class have not been injured as a matter of law. Even if Plaintiffs were injured as a matter of law, Jefferson Health was not the legal or proximate cause of any alleged injuries to Plaintiffs as there were superseding causes and/or actions conducted by Plaintiffs, the putative class, or third parties that were the legal or proximate cause of Plaintiffs' alleged injuries.

16. Plaintiffs' claims and those of the putative class are barred, in whole or in part, because they have failed to join the necessary and indispensable parties to this action.

17. This case is improper for resolution on a class-wide basis because the putative class does not meet the requirements of Civil Rule 23. Specifically, Plaintiffs are not adequate representatives of any purported class; their claim is not typical; common questions of law or fact affecting the individual members of the class do not predominate; a class action is neither manageable nor superior; and/or there is no ascertainable class with a community of interest.

18. Plaintiffs' and the putative class's theory of relief for their claims is unconstitutionally overbroad because their theory of relief infringes upon Jefferson Health's protected speech and would result in an untenable interpretation of their claims.

19. Plaintiffs and the putative class's causes of action are barred, in whole or in part, because there is no basis for injunctive relief in this action.

20. The damages suffered by Plaintiffs and the putative class, if any, were the result of superseding and/or intervening causes, which actions bar, preclude, and/or diminish Plaintiffs' and the putative class members' recovery against Jefferson Health.

21. Plaintiffs' claims and those of the putative class are barred or must be reduced by their failure to mitigate damages as Plaintiffs and the putative class continued to use the website

with knowledge of, or when they should have had knowledge of, the widespread use of common third-party website analytics tools.

22. The damages suffered by Plaintiffs and the putative class, if any, are limited to the amount they paid to access Jefferson Health's public website as Plaintiffs' damages, if any, stem from their use of Jefferson Health's public website.

23. The imposition of aggregated, class-wide damages in this case would be excessive and violate Jefferson Health's due process and other Constitutional Rights.

24. Plaintiffs' claims and those of the putative class are barred, in whole or in part, because their alleged damages were caused by Plaintiffs' or the putative class's own actions or by a third party.

25. Plaintiffs' claims and those of the putative class are barred, in whole or in part, by their assumption of the risk because Plaintiffs and the putative class agreed to Jefferson Health's terms and conditions when using Jefferson Health's website.

26. Plaintiffs' claims and those of the putative class must be reduced, in whole or in part, by an appropriate set-off to the extent that Plaintiffs or the putative class members owe any amounts to Jefferson Health.

27. Plaintiffs and the putative class have suffered no actual injury or legally cognizable damages, and their purported damages, if any, are speculative and/or uncertain and, therefore, not compensable.

Reservation of Rights

28. Jefferson Health states that the lack of discovery and the aggregated nature of Plaintiffs' claim, in particular with respect to absent putative class members, makes an analysis of all potential affirmative defenses that might be applicable to any given absent class member

infeasible at this time, and therefore expressly reserves the right to assert additional defenses as the case progresses.

Dated: October 21, 2024

Respectfully submitted,

BAKER & HOSTETLER LLP

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Health*

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of October 2024, I electronically filed the foregoing with the Court using the CM/EFC system, which will automatically serve all attorneys of record via the Court's CM/ECF System.

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